

ORDINANCE NO. 2229, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL UPDATING AND EXTENDING THE CITY'S RESIDENTIAL DEVELOPMENT CONTROL SYSTEM UNTIL THE YEAR 2035 BY AMENDING THE GENERAL PLAN AND CHAPTER 18.78 OF THE MUNICIPAL CODE

The people of the City of Morgan Hill do hereby ordain as follows:

I. PURPOSE AND FINDINGS

- A. Since 1977 the City of Morgan Hill ("the City") has had in place a Residential Development Control System ("RDCS"), which sets a target future population for the City and provides a method for evaluating proposed residential developments and issuing a limited number of development allotments each year. The RDCS has helped to assure that residential development pays for itself and that the rate of development does not outstrip the availability of public services and infrastructure to serve the City's residents. The system was first enacted by the voters through Measure E in 1977, subsequently refined and extended through Measure P in 1990, and further updated and extended by Measure C in 2004. The RDCS was amended by Measure F in 2006 and Measure A in 2009 to provide exemptions for units constructed downtown. By the terms of Measure C, the RDCS remains in effect until fiscal year 2019/20, and can be amended only by a vote of the people. By this RDCS Update, the voters of the City are updating and amending and extending the RDCS until January 1, 2035.
- B. The RDCS has fostered balanced growth in the City. The City has achieved a manageable level of development, and has encouraged more efficient patterns of development by directing growth to areas that are contiguous to existing development and served by adequate infrastructure. The RDCS has helped the City to preserve a diversity of housing opportunities, including a good stock of high-quality affordable housing, for its residents. In the 2007-14 Housing Element cycle, for example, a significant number of housing units were built, particularly for seniors and the City achieved its quantified housing production objectives for total units. The RDCS has helped to maintain the vitality of the City while preserving its open space resources.
- C. Measure C established a population ceiling of 48,000 for the City in the year 2020. The City's population as of January 1, 2016 is approximately 43,645. In 2016, the City updated its General Plan. In the course of the update the City adopted an updated population ceiling of 58,200 for the year 2035. The updated General Plan retains the 2020 population ceiling and the RDCS through 2019/20 as adopted by Measure C and amended by Measures A and F. This measure would replace those provisions to extend the RDCS to January 1, 2035, set a population ceiling of 58,200 for that date, and adjust the allotment provisions of the RDCS to establish a maximum number of residential allotments available each year, not to exceed 215 allotments per year.
- D. In reviewing the implementation of the numerical formulas and the scoring system of the RDCS, the City has concluded that, while on the whole the system works well and should

be maintained and extended, certain aspects of the RDCS need to be further refined to provide a more consistent number of allotments each year and avoid extreme variations in the amount of residential development that takes place year to year, and otherwise to simplify the administration of the system. This measure amends the RDCS to make these and other refinements.

- E. Beginning in 2013, the City conducted an extensive community engagement process, including numerous General Plan Advisory Committee (GPAC), Planning Commission, City Council, RDCS Update Working Group, general community, and community stakeholder meetings. Through the course of these meetings, participants extensively reviewed the City's current General Plan.
- F. The RDCS Update Working Group met 11 times from May through October 2015. The Working Group meetings were open to the public and provided opportunities for community members to listen to the discussions and to provide comments on the RDCS Update.
- G. The Planning Commission held a series of 5 workshops and 2 study sessions from February through April 2016 that were open to the public. In addition, the City Council discussed the RDCS Update at 4 meetings in the spring and summer of 2016. Over the course of these meetings, public review drafts of the RDCS were published and posted online, each draft revised to reflect the public input received.
- H. The purpose of the updated RDCS is to:
 - 1. Establish a limit on the amount and rate of residential growth in Morgan Hill through 2035.
 - 2. Encourage high quality residential development that enhances residents' quality of life.
 - 3. Ensure that new residential development does not adversely impact the level of public services and infrastructure provided for current and future residents.
 - 4. Promote a diverse stock of high quality housing to meet the full range of housing needs within Morgan Hill.
 - 5. Encourage new residential development to contribute community benefits that enhance the public health, safety, and welfare.
 - 6. Encourage an orderly, efficient, and sustainable residential development pattern.
 - 7. Advance the goals and policies of the General Plan and Downtown Specific Plan.
 - 8. Provide certainty to residents that residential development patterns will reflect local goals and values.
- I. Based on the foregoing, the voters hereby enact this measure amending the General Plan and Chapter 18.78 of the Morgan Hill Municipal Code thereby extending the term of the RDCS, as amended, to January 1, 2035.

II. GENERAL PLAN AMENDMENTS

This measure hereby amends the City of Morgan Hill General Plan adopted by the City Council on July 27, 2016 ("General Plan"). Text to be inserted in the General Plan is indicated in double underlined type (example). Deletions are shown in strikeout font (~~example~~). Text in standard type appears in the General Plan as of the submittal date that is not changed by this measure. The amendments are as follows:

1. The text of the City and Neighborhood Form Element is amended to delete the following description of the RDCS.

RESIDENTIAL DEVELOPMENT CONTROL

~~The following provisions, enacted by voter initiative Measure P in 1990 and refined and extended by votes of the people of the City in 2004 and 2006 shall apply to all residential development in the City, and to any residential development that requires provision of urban services by the City, to and including fiscal year 2019/20.~~

REQUIREMENT OF DEVELOPMENT ALLOTMENTS FOR ALL RESIDENTIAL DEVELOPMENT

~~For the years to and including fiscal year 2019/20, no residential development shall be undertaken, and no discretionary permit or building permit shall be issued, in the City of Morgan Hill unless a development allotment has been obtained therefore in accordance with the provisions of this section of the General Plan and the Residential Development Control System (RDCS) set out in the Morgan Hill Municipal Code, except for secondary dwelling units ("granny units") and for a single dwelling unit, on the following conditions: If one unit is proposed on a parcel of sufficient size to accommodate additional units, it may be permitted without an allotment only if a deed restriction is placed upon the parcel which requires allotments to be obtained for any additional dwelling units on that parcel. Furthermore, if more than one continuous parcel is proposed for development by the same individual or entity under the single dwelling unit exemption on each parcel, Residential Planned Development Zoning shall be required for such development. The Residential Development Control provisions of this section shall apply to all types of residential development in the City of Morgan Hill, including single family (which includes mobile homes) and multi family housing.~~

NUMBER OF DEVELOPMENT ALLOTMENTS

~~The population ceiling for the city as of January 1, 2020 is 48,000. This ceiling shall not be increased, regardless of whether additional lands are added to the city or its Urban Service Area. However, if any of the following existing County subdivisions, which are already within the City's Urban Growth Boundary ("Existing County Subdivisions"), are annexed into the City, the population within them shall not count against the 48,000 person population limit: Holiday Lake Estates Unit 1, Casalegno's Subdivision (Casa Lane), and El Dorado III (at southwest corner of Hill Road and Diana Avenue).~~

~~Except for the 100 allotments made available by the voters in November 2006 for projects of up to 25 units in the downtown core area defined as from south of Main, north of Dunne, east of Del Monte, and west of the railroad tracks ("Downtown Core"), which are in addition to the usual numbers as determined by this paragraph, the number of allotments shall be determined biennially, using the California Department of Finance's most recently determined figures for the persons per household and total population of the City of Morgan Hill. The State's estimate will be adjusted for any relevant housing backlog not included in its population estimate, any Existing County Subdivision (as defined under the prior paragraph) that has been annexed, and any other quantifiable~~

~~factor which improves the accuracy of the estimate. The adjusted population is then subtracted from 48,000, the result divided by the Department of Finance's most recently determined figure for person per household in Morgan Hill, and then divided by the number of years remaining between the population estimate date and 2020. This gross annual allotment is then reduced for any fiscal year by its previously awarded allotments (awarded in prior years) and the number of exempt units anticipated for that fiscal year.~~

~~Except for the 100 allotments made available by the voters in November 2006, the number of development allotments shall be divided between conventional single family dwellings, mobile homes and multiple family dwellings in a manner determined by the City Council, provided that no less than 33 percent of all allotments shall be awarded to single family dwelling units. The number of affordable/elderly dwelling units shall be assigned in a manner consistent with state law for the total number of allotments to be assigned for that year. The City Council may, if it chooses, further divide the allotments according to geography, price, development size, phasing (including the number of units and timing of allotments required to complete the project), and similar criteria as deemed necessary to provide for the general welfare.~~

~~For the competitions for allotments in fiscal years 2006-07 through 2009-10, the City Council shall reserve a certain number of allotments for projects in the Downtown Area. The number of allotments allocated, and the geographic limits of the Downtown Area for this purpose, shall be determined by the Council. The Council may amend the number of reserved allotments and geographic limits of Downtown for this purpose, and may continue to reserve an appropriate number of allotments to Downtown area projects after the 2009-10 fiscal year. Downtown housing and mixed use projects within the Downtown RDOS Boundary that were awarded allotments in March 2006 may be started and completed earlier than their allotment years. The City Council may establish procedures for scoring and awarding the 100 allotments made available by the voters in November 2006, which may not require a competition but which shall provide that all projects must achieve a minimum score for the project type, and which may allow for flexible project start and completion dates. The City Council may, in any year reserve an appropriate number of allotments per year to vertical mixed-use projects, which are not restricted to the Downtown Area.~~

DEVELOPMENT ALLOTMENT APPLICATIONS AND EVALUATIONS

~~Development allotments shall be allocated to proposed developments in accordance with a Residential Development Control System set out in the Morgan Hill Municipal Code. This system shall provide for awards of development allotments based on the number of points scored for all development proposals biennial competition, or outside of a competition but based on requiring projects to achieve a minimum point score, for the special 100 downtown allotments established by the voters in November 2006. The point scale used shall take into account the impact of the proposed development on the following public facilities and services: water supply system, sanitary sewer and treatment plant, drainage and runoff, fire and police protection, traffic and other municipal services.~~

~~Proposed developments shall be awarded points for provision of schools, and related facilities, open space, orderly and contiguous development, public facilities, parks and trails, low-income and moderate income housing and housing for the elderly, and diversity of housing types; and for quality of architectural design and site design.~~

~~Small residential developments provide special benefits to the City by encouraging local developers, providing design variety, and promoting utilization of smaller lots. These developments do not impose as high a burden on municipal services as do larger projects, because their demands are incremental and they tend to be infill developments. Such small developments may be unable to compete with larger developments in terms of the levels of amenities provided. In order to treat small developments in a manner reflecting their benefits to the community, the Residential Development Control System shall be designed to provide for small development through appropriate means selected by the City Council, such as a separate small project competition and a more streamlined and less~~

~~costly process.~~

~~In implementing the provisions of the Residential Development Control System and making awards of development allotments, the City Council shall comply with Government Code Sections 66000 et seq. and other relevant provisions of the state Planning and Zoning Law.~~

EMERGENCY SITUATIONS

~~No residential development shall be permitted during a period of emergency or severe impaction of public facilities, as declared by the City Council pursuant to provisions of the Municipal Code. The declaration of an emergency or severe impaction situation may be based on determinations of mandatory water rationing, sewage system operating at 95% capacity, or other endangerment to the public health, safety or welfare. In the event of overcrowding in public school serving Morgan Hill, the City Council shall work with the school district pursuant to Government Code sections 65970 et seq. to seek appropriate mitigation and prevent further overcrowding, including, as authorized by state statute, prohibiting residential development within the overcrowded school attendance area. The Council shall, in implementing this provision, comply with the provisions of Government Code Sections 65858, 65996, and any other applicable provisions of law.~~

OPEN SPACE CONVERSIONS

~~No development allotments shall be awarded for a development proposal pursuant to this chapter and the RDCS unless the public benefits included in the proposal are secured in a permanent and enforceable manner. Lands that are designated for private or public open space, greenbelts, parks, paths, trails, or similar scenic and recreational uses in a residential development allotment application under this section shall, once the application is approved, be limited to the uses specified in the application through the use of permanent dedications, easements, or similar devices.~~

~~With respect to development allotments already awarded, wherever legally possible no further building permits shall be granted for a project until such public benefits specified in the development application, particularly but not exclusively open space dedications, have been secured in a permanent and enforceable manner.~~

~~The lands within the City of Morgan Hill that are designated "Open Space" on the Morgan Hill General Plan Land Use/Circulation Elements map, as amended through November 19, 2003, are hereby reaffirmed and readopted through FY 2019/20. This provision shall not prevent the City Council from designating additional lands as open space.~~

URBAN SERVICE AREA RESTRICTIONS

~~The City of Morgan Hill shall neither apply to LAFCO, nor otherwise request or support, the addition of any land to its Urban Service Area, until such time as the City Council finds that the amount of undeveloped, residentially developable land either within the existing Urban Service Area is insufficient to accommodate five years worth of residential growth beyond that required to accommodate the number of development allotments available in the next competition. The projected rate of growth for purposes of this determination shall be the rate of growth provided for by this section of the General Plan and the RDCS. After making such a finding of space insufficiency, the City may support the addition of land to the Urban Service Area only to the extent necessary to support approximately five or fewer years of growth beyond that required to accommodate the number of development allotments available in the next competition.~~

~~The City Council may formulate standards by which it may make exceptions to the above-stated provision, for desirable infill. Desirable infill is defined as a tract of land not exceeding twenty acres and abutted on at least two sides by the city or abutted on one side by the city and having two other sides within a quarter mile of a city~~

~~boundary (as determined by a perpendicular line drawn from the side of the parcel to the city boundary) and whose inclusion into the Urban Service Area would not unduly burden City services and would beneficially affect the general welfare of the citizens of the city. The standards set up for granting such exceptions must include criteria to prevent repetitively granting exceptions to the same applicant, development, or parcel. The City Council, prior to approving any expansion of the Urban Service Area for desirable in-fill, shall make findings documenting that expansion would not unduly burden City services, and that the expansion would beneficially affect the general welfare of the citizens of the City, as defined in the following paragraph.~~

~~Areas whose addition to the Urban Service Area would be considered to beneficially affect the general welfare of the citizens of the City include those areas that promote orderly and contiguous development by facilitating the provision of infrastructure improvements, or allow for the establishment of public facilities such as parks, schools, or other buildings to be owned or operated by the city, school district, water district, or any other public agency. Infrastructure improvements that would promote orderly and contiguous development are those that connect to the existing infrastructure (for example, the continuation of a dead-end street that would improve traffic circulation patterns), or otherwise complete or complement the existing system. The infrastructure improvements that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be installed, or the land needed for public facilities that are the basis of the City's findings that the expansion would beneficially affect the general welfare of the City must be conveyed to the public agency, within five years of the date the area is added to the Urban Services Area or upon its development, whichever occurs first. The commitment by the applicant to install the infrastructure improvements on which the City's findings are based, or convey the land needed for the public facilities on which the findings are based, must be secured prior to official action adding the area to the Urban Services Area, through a development agreement or other legally binding agreement recorded against the property. The City shall not require an applicant to provide infrastructure or land in a quantity exceeding that which is needed to fully offset and mitigate all direct and cumulative impacts on services and infrastructure from new development proposed by the applicant.~~

~~The City Council may make exceptions to these requirements for, and support the annexation to the City of Existing County Subdivisions as defined in paragraph B, "Number of Development Allotments," of the Residential Development Control provisions of the General Plan.~~

~~This section is not intended to, and shall not be applied to, restrict or constrain the discretion of the LAFCO, nor to prevent any action required by the Knox-Hertzberg Local Government Reorganization Act of 2000 or other state statute or by any Court judgment.~~

~~In order to assure that City services and resources are not unduly burdened, urban sprawl and noncontiguous development must be discouraged. Therefore, for any land added to the Urban Service Area between March 1, 1990 and the effective date of Measure P, December 8, 1990, and not considered "infill" as defined above, the City shall not provide urban services to support any development at a higher density than that provided for in the Santa Clara County General Plan as of March 1, 1990.~~

URBAN SERVICES EXTENSIONS

~~The City of Morgan Hill shall grant no new extensions of urban services for residences beyond its Urban Service Area except in the event that 1) Morgan Hill has entered into a mutual aid or reciprocal emergency agreement for police, fire, or other emergency services to be provided by City facilities on County land; or 2) an owner of an existing development requests an extension due to the failure of an existing septic system or well and the City Council makes a finding that denial of services to that development would have a direct adverse impact on the public health and safety.~~

2. The description of the Open Space Land Use Category in the City and Neighborhood Form Element is amended as follows:

Open Space. This designation applies to land in the City limits and SOI, and includes public parks, private golf courses, and large parcels of land generally 50 acres or more in size. Land designated Open Space is generally meant to remain unimproved and devoted to the preservation of natural resources, managed production of resources, or public health and safety, as well as to complement adjacent, higher density residential and commercial development. Allowed uses include agriculture, outdoor recreation, and a secondary dwelling unit. One single-family home per parcel is allowed, with appropriate permit. ~~The Residential Development Control System requires that lands within the City that are designated Open Space maintain this designation through fiscal year 2019/2020. This provision does not prevent the City Council from designating additional lands as Open Space.~~

3. The policies of the City and Neighborhood Form Element shown below are amended or adopted as follows:

Policy CNF-3.2 Relationship to General Plan. Require the RDCS to implement the goals, and policies of the General Plan as they relate to residential development in Morgan Hill through 2035.

Policy CNF-3.4 Population Limit. ~~Subject to voter approval, plan~~ Plan for a January 1, ~~2020~~ 2035 population of ~~48,000~~ 58,200 residents.

Policy CNF-3.9 Annual Allotments. Limit the number of allotments available each year so that as of January 1, ~~2020~~ 2035 the population of Morgan Hill does not exceed ~~48,000~~ 58,200.

Policy CNF-3.13 Downtown Set-Asides. Set aside at least 500 allotments for housing within the Downtown Specific Plan boundaries through 2035. Downtown projects do not compete in the RDCS competition – projects consistent with the Downtown Specific Plan, General Plan, and Zoning Code receive allotments on a first-come-first-serve basis.

Policy CNF-3.14 Agricultural Preservation Set-Asides. Set aside at least 300 allotments for housing that may be applied anywhere in the City through 2035. Recipient projects must directly establish permanent agricultural conservation easements within the City Limits or within the City's Priority Agricultural Conservation Area.

Policy CNF-3.15 Voluntary Features. Allow project applicants to incorporate features into projects to receive points on a voluntary basis. These features must exceed the minimum requirements that apply to all development as specified in the General Plan and Zoning Code.

Policy CNF-3.16 Competition Criteria. Award points to projects using criteria that relate to the following:

- ☐ Schools
- ☐ Location
- ☐ Affordable Housing
- ☐ Housing Diversity
- ☐ Parks and Open Space
- ☐ Environmental Protection
- ☐ Transportation
- ☐ Infrastructure and Services
- ☐ Project Quality

Policy CNF-4.8 Land Supply. Include enough land within the Urban Service Area to provide for a minimum of 5 years of urban growth rate, amount, and type of development consistent with the General Plan; review and modify the Urban Service Area boundaries as needed.

4. The following policy of the Natural Resources and Environment Element is amended as follows:

Policy NRE-1.3 Designated Open Space. Maintain land designated as "Open Space" on the Morgan Hill General Plan Land Use Map (Figure CNF-3), in accordance with Measure C, through fiscal year 2019/20.

4. The following policy of the Healthy Communities Element is adopted.

Policy HC-1.12 School Availability. The City Council may reduce the number of available residential allotments for an individual RDCS competition year upon making certain findings, including that public infrastructure and services (including schools) are or will be inadequate to accommodate new development.

III. ZONING CODE AMENDMENTS

This measure hereby amends the City of Morgan Hill Zoning Code by replacing the existing text of Chapter 18.78 of the Morgan Hill Zoning Code with the text set forth below. The existing text of Chapter 18.78 that is being replaced by this measure is included for informational purposes as Attachment A.

Chapter 18.78 – Residential Development Control System

Sections:

18.78.010	RDCS Purpose and History
18.78.020	Amendments to RDCS Ordinance
18.78.030	Transitional Provisions
18.78.040	Population Limit
18.78.050	Allotments– General
18.78.060	Downtown and Agricultural Preservation Set Asides
18.78.070	Urban Service Area Boundaries
18.78.080	Competition for Allotments
18.78.090	Competition Categories
18.78.100	Competition Manual
18.78.110	Number of Available Allotments
18.78.120	RDCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments [CCA]
18.78.130	Pre-Application Review [CCA]
18.78.140	Project Phasing [CCA]
18.78.150	Land Use Entitlements Required [CCA]
18.78.160	Expiration of Allotments [CCA]
18.78.170	Extensions [CCA]

Note: Sections which may be amended or repealed by the City Council without voter approval are identified with the note “[CCA]” following the section heading.

18.78.010 RDCS Purpose and History

A. Purpose. This chapter establishes requirements for the Morgan Hill Residential Development Control System (RDCS). The purpose of the RDCS is to:

1. Establish a limit on the amount and rate of residential growth in Morgan Hill through 2035.
2. Encourage high quality residential development that enhances residents' quality of life.
3. Ensure that new residential development does not adversely impact the level of public services and infrastructure provided for current and future residents.
4. Promote a diverse stock of high quality housing to meet the full range of housing needs within Morgan Hill.
5. Encourage new residential development to contribute community benefits that enhance the public health, safety, and welfare.
6. Encourage an orderly, efficient, and sustainable residential development pattern.
7. Advance the goals and policies of the General Plan and Downtown Specific Plan.
8. Provide certainty to residents that residential development patterns will reflect local goals and values.

B. History. The RDCS is a continuation and refinement of the voter-approved growth management system first established in Morgan Hill in 1977. The RDCS was originally approved by voters in response to concerns over the amount and pace of residential growth and the impacts of this growth on city services and infrastructure. RDCS ballot measures adopted by the voters include the following:

1. Measure E (1977), which set a target population of 30,000 for year 2000 and established the RDCS.
2. Measure P (1990), which refined the RDCS and established a population ceiling of 38,800 for 2010.
3. Measure C (2004), which again refined the RDCS and set the population ceiling to 48,000 for 2020.
4. Measure F (2006) and Measure A (2009), which established exemptions for units constructed Downtown.
5. Measure [TBD] (2016), which was adopted in conjunction with the City's General Plan Update to further refine the RDCS and set the population ceiling to 58,200 for 2035.

18.78.020 Amendments to RDCS Ordinance

This ordinance (Chapter 18.78 of the Morgan Hill Municipal Code) was adopted by the voters of Morgan Hill in 2016 and may be amended or repealed only with voter approval except as specified in subsections A and B below.

A. Amendments Allowed without Voter Approval. The following sections may be amended by an ordinance duly adopted by the City Council in accordance with state law:

1. 18.78.120 (RDCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments).
2. 18.78.130 (Pre-Application Review).
3. 18.78.140 (Project Phasing).
4. 18.78.150 (Land Use Entitlements Required).
5. 18.78.160 (Expiration of Allotments).
6. 18.78.170 (Extensions).

B. Reorganizing and Renumbering of Municipal Code. The Morgan Hill Municipal Code may be reorganized or readopted in a different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the Municipal Code, provided that the provisions of this ordinance adopted by the voters of Morgan Hill in 2016 remains in the Municipal Code unless earlier repealed or amended by the voters or by the City Council in accordance with subsection A, above.

18.78.030 Transitional Provisions

- A. Replacement of Prior RDCS Ordinance.** This ordinance repeals and replaces in its entirety the prior RDCS ordinances, previously codified in Division IV (Residential Development Code) of Title 18 (Zoning) of the Morgan Hill Municipal Code.
- B. Prior Actions Remain Valid.** Any City action taken or approval granted pursuant to the prior RDCS ordinance is not affected by the enactment of this ordinance. All future actions and approvals shall comply with this ordinance.
- C. Previously Approved Allotments.**
1. Allotments awarded and exercised prior to March 1, 2017 shall remain valid and are not affected by this ordinance.
 2. Allotments awarded prior to March 1, 2017 but which have not yet been exercised shall remain valid until the expiration date established at the time of allotment or as established in the project's Development Agreement. Applicant requests for an extension to the date by which these allotments must be exercised and City action on these requests are governed by Section 18.78.170 (Extensions) of this ordinance.
- D. No Changes to Prior Projects Required.** No provision of this ordinance shall require any change in the plans, construction, or design of the portion of a project which received allotments prior to March 1, 2017.

18.78.040 Population Limit

- A. Maximum Population.** Morgan Hill's population as of January 1, 2035 shall not exceed 58,200.
- B. Ceiling, Not a Target.** The 58,200 population limit is a maximum ceiling, not a target. The City is not required to actively strive to reach 58,200 residents by 2035. Instead, the City shall ensure that Morgan Hill's population does not exceed this limit by 2035 while continuing to meet the full range of housing needs in Morgan Hill.

- C. Limit to all Population Growth.** Morgan Hill's population limit is intended to limit all population growth, including growth from new housing exempt from receiving RDCS allotments as specified in Section 18.78.050.C (Exemptions from Allotments) and set-aside allotments awarded as allowed by Section 18.78.070 (Downtown and Agricultural Preservation Set Asides). The number of allotments available each year and the process to adjust this number is intended to ensure that residential growth from all sources does not result in a population that exceeds the population limit of 58,200 residents in 2035.

18.78.050 Allotments – General.

- A. Allotments Based on Population Limit.** The City Council shall establish a maximum number of residential allotments available each year, not to exceed 215 allotments per year, such that the population in Morgan Hill does not exceed 58,200 as of January 1, 2035.
- B. Allotment Requirement.** A residential allotment authorizes an applicant to apply for land use entitlements and to construct these units should the City approve these entitlements. No residential unit may be developed without first obtaining an allotment, except for exempt units specified in Section C below.
- C. Exemptions from Allotments.** The following types of residential projects may be developed without first receiving any allotments:
1. One single-family home on a lot existing as of March 1, 2017;
 2. Secondary dwelling units;
 3. The conversion of an existing single-family home into a duplex provided that a new detached primary structure is not constructed on the lot or lots;
 4. Assisted living/nursing homes; and
 5. The annexation of existing dwelling units outside of City limits into the City.
- D. Timing of Allotment Use.** To maintain a steady rate of residential development, allotments must be used ("exercised") by a specific date as established in Section 18.78.160 (Expiration of Allotments). Allotments that are not used by the specified date expire and are no longer valid. Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.
- E. Rate of Growth.** The Planning Commission shall allocate available allotments each year with the goal of maintaining a steady rate of growth.
- F. Cancellation of Allotment Awards.** The City Council may cancel the process to award allotments upon finding that public services and facilities are inadequate to accommodate additional residential development and that awarding allotments would significantly impact the public health, safety and welfare.

18.78.060 Downtown and Agricultural Preservation Set Asides

- A. General.** Through 2035 a certain number of allotments are set aside for residential projects in Downtown Morgan Hill and for projects that contribute to the City's agricultural preservation goals.
- B. Eligibility.** To be eligible to receive set-aside allotments, a project must receive at least 80 percent of the total maximum score in the RDCS competition criteria.
- C. Competition Not Required.** Eligible projects are not required to compete for set-aside allotments. Instead, allotments are issued to eligible projects by the Planning Commission on a first-come, first-served basis up to the total number of available set-aside allotments each year.
- D. Number of Available Set-Aside Allotments.**
 - 1. Downtown Set-Asides.** Through 2035, 500 allotments are set aside for housing within the Downtown Specific Plan boundaries set forth in the City's General Plan as of July 27, 2016. No more than 100 set-aside allotments are available for downtown projects within a single year.
 - 2. Agricultural Preservation Set-Asides.** Through 2035, 300 allotments are set-aside for housing that may be applied anywhere within the City. Recipient projects must directly establish permanent agricultural conservation easements within the City Limits or within the City's Priority Agricultural Conservation Area. Easements must be established within the City's Sphere of Influence in a manner consistent with the Citywide Agricultural Lands Preservation Program. The number of allotments granted to an eligible project shall be commensurate with the community benefit obtained from the resulting preservation of agricultural lands. No more than 35 set-aside allotments are available for agricultural preservation projects within a single year.

18.78.070 Urban Service Area Boundaries

- A. Allotments within Urban Service Area Only.** The City may approve allotments only for projects located within the City's Urban Service Area boundaries.
- B. Application to Expand Urban Service Area.** The City may apply to the Santa Clara County Local Agency Formation Commission to expand the Urban Service Area boundary of the City to accommodate additional residential development if the City Council first makes all of the following findings supported by substantial evidence on the record of a duly noticed public hearing on the matter:
 - 1.** The expansion is necessary to accommodate the amount, rate, location, and type of residential development envisioned in the General Plan.
 - 2.** The expansion is consistent with any City adopted plans, policies, or ordinances specifying a preferred sequence of future annexations.
 - 3.** Public services and infrastructure are or will be sufficient to accommodate development resulting from the expansion of the Urban Service Area boundary. Additional development will not adversely impact public services and infrastructure, including public schools, the transportation system, parks, police, fire service, storm drainage, wastewater, and water service.

4. The expansion supports an orderly development pattern that prioritizes infill development adjacent to existing development and served by existing public services and infrastructure.
5. The expansion is necessary to accommodate the housing and/or employment needs of Morgan Hill.
6. The expansion promotes fiscal responsibility, cost-effective service delivery, and the City's ability to plan for and adequately maintain urban services over time.

18.78.080 Competition for Allotments

- A. Annual Competition.** Each year the City may conduct a competition for allotments for development of residential units, except when the City Council cancels the competition allowed by Paragraph D below. Projects exempt from the RDCS competition as specified in Section 18.78.050.C (Exemptions from Allotments) and projects eligible for set-aside allotments as specified in Section 18.78.060 (Downtown and Agricultural Preservation Set Asides) do not participate in the competition.
- B. Minimum Score.** To be eligible to compete for allotments, a project must receive a minimum score of at least 80 percent of the total maximum score in the RDCS competition criteria.
- C. Award of Allotments.** The Planning Commission shall award allotments based on a scoring of projects using criteria established by the City Council pursuant to Section 18.78.100 (Competition Manual). The Planning Commission may award a project fewer than the total number of allotments requested by the applicant. In such a case, the Planning Commission may award the surplus allotments to the next highest scoring projects if doing so would help create a more balanced and equitable distribution of allotments and help to achieve the goals of the General Plan.
- D. Cancellation of Allotment Awards.** The City Council may cancel the process to award allotments upon finding that public services and facilities are inadequate to accommodate additional residential development and that awarding allotments would significantly impact the public health, safety and welfare, or if there is insufficient demand necessary to produce high quality developments.

18.78.090 Competition Categories

- A. General.** Each year the City Council may establish competition categories for certain types of projects. Projects within a competition category will compete for allotments only with other projects in the same competition category. For each competition category, the City Council shall identify the number of allotments available for projects competing within the competition category.
- B. Example Competition Categories.** Example of competition categories may include, but are not limited to, projects within the Monterey Road corridor, small projects (less than 15 units), senior housing, vertical mixed use, and multi-family rental.
- C. Affordable Housing.** When establishing competition categories, the City Council shall ensure that an adequate number of allotments are available for affordable housing projects consistent with the City's Regional Housing Needs Allocation (RHNA) and adopted Housing Element.

18.78.100 Competition Manual

The City Council shall adopt and maintain an RDCS Competition Manual that establishes criteria and point values for the RDCS competition. The Competition Manual shall define terms and provide detail as needed to ensure that the City awards points consistently for all competing projects.

- A. Competition Criteria.** The Competition Manual shall identify the criteria that the City will use to award allotments to competing projects. Competition criteria in the Competition Manual shall advance the nine City objectives below, which may be modified only with voter approval.
1. **Schools.** Provide safe and convenient access to schools and ensure high quality schools in Morgan Hill.
 2. **Location.** Encourage infill development adjacent to existing development and close to existing community services and facilities.
 3. **Affordable Housing.** Increase the supply of housing affordable to households of all incomes levels.
 4. **Housing Diversity.** Provide a variety of housing types and sizes to meet the range of housing needs within Morgan Hill.
 5. **Parks and Open Space.** Provide high quality parks and recreational facilities and protect and preserve open space and productive agricultural land.
 6. **Environmental Protection.** Increase energy efficiency, renewable energy, energy conservation, water conservation, habitat protection, and achieve other sustainability goals.
 7. **Transportation.** Support a balanced and efficient transportation system for pedestrians, cyclists, public transit, and automobiles that maintains quality of life in residential neighborhoods.
 8. **Infrastructure and Services.** Emphasize efficient use of public infrastructure and services.
 9. **Project Quality.** Ensure quality design related to general livability, public safety, neighborhood form, site planning, building design, and landscape design.
- B. Points.** The Competition Manual shall establish points available for competition criteria that advance the City goals identified in Section A above.
1. **Limitations on Number of Points and Changes.** The total number of points for each of the nine objectives above (e.g., schools, location, affordable housing, etc.) shall be no more than 20 percent and no less than 5 percent of the total number of available RDCS competition points. The City Council may adjust the number of points within each objective by no more than 15 percent of the points available within the objective the previous year.
 2. **Intent of Points.** Points shall be awarded only for projects that provide for excellence in project design and provide a community benefit that exceeds minimum requirements of the City and other governmental agencies. All projects must comply with City standards established in the General Plan, Municipal Code, and other City rules and regulations together with other applicable laws.

C. Revisions to Criteria and Points. In order to promote long term consistency and reduce uncertainty for applicants for residential development, the City Council shall amend competition criteria and point values in the Competition Manual only when necessary and no more frequently than once a year. The Planning Commission shall recommend to the City Council any revisions to the competition criteria and/or point values. If amended, competition criteria and/or point values shall be established no later than six months prior to the RDCS application submittal deadline.

18.78.110 Number of Available Allotments

- A. Annual Allocations.** Beginning with the competition in year 2017, the City may allocate no more than 215 allotments in any given year for residential development that must compete for allotments. Set-aside allotments as described in Section 18.78.060 (Downtown and Agricultural Preservation Set-Asides) may be awarded in addition to the annual allotment maximum.
- B. Annual Reductions to Available Allotments.** Each year staff shall provide the Planning Commission with an assessment of conditions, per the findings below, that may necessitate a reduction in the number of available allotments. No later than six months prior to the RDCS application submittal deadline each year, the Planning Commission may recommend and the City Council may reduce the number of available allotments for an RDCS competition year upon finding that:
1. Reducing the number of allotments is necessary to prevent a sudden spike in construction of new housing caused by a backlog of awarded allotments which have not yet been exercised.
 2. Public infrastructure and services are or will be inadequate to accommodate the new development. Public infrastructure and services include public schools, the transportation system, parks, police, fire service, storm drainage, wastewater, and water service.
 3. Other conditions are present that necessitate a reduction in the number of available allotments to achieve the RDCS purpose as stated in Section 18.78.010 (RDCS Purpose and History).
 4. Downtown and/or Agricultural Preservation Set-Aside allotments have been issued. The number of annual allotments must be reduced to address the issuance of any set-aside allotments.
 5. There is insufficient demand necessary to produce high quality developments or public benefits.

18.78.120 RDCS Procedures – Application Submittal and Review, Project Scoring, and Award of Allotments [CCA]

- A. Pre-Competition Orientation.** The City shall hold an open pre-competition orientation meeting at least four months prior to the RDCS application submittal deadline. At this meeting the City shall review with prospective applicants the RDCS schedule, application requirements, and competition criteria for awarding points.
- B. Pre-Application Review.** To be eligible to submit an RDCS application, applicants must have completed Pre-Application Review as described in Section 18.78.130 (Pre-Application Review).
- C. Applications.** Applicants shall submit an RDCS application consisting of the information and materials required by the City. Applications shall be submitted on a date determined by the Community Development Director. Applications may not be modified after submittal except as otherwise provided for in this chapter.
- D. General Plan and Zoning Consistency Determination.** After deeming an RDCS application complete, the Community Development Director or the Director's designee shall evaluate each application for consistency with the City's General Plan and Zoning Code and reject any applications which are found to be inconsistent with either the City's General Plan or Zoning Code. The Community Development Director's determination is appealable to the City Council. The City Council may direct the applicant to make modifications to the application and if these modifications bring the application into compliance with the General Plan and Zoning Code the application may continue to compete for allotments.
- E. Staff Scoring of Applications.** After deeming an RDCS application complete and consistent with the General Plan and Zoning Code, the Community Development Director or Director's designee shall recommend point assignments to projects using scoring criteria established by the City Council. City staff shall forward recommended scoring to the Planning Commission.
- F. Planning Commission Hearings – Project Scores.** The Planning Commission shall hold a public hearing to consider the scoring recommendation and to make a final determination of project scoring.
- G. Staff Recommendation – Award of Allotments.** After the completion of the appeal period following the Planning Commission determination of project scoring, the Community Development Director or the Director's designee shall recommend the award of allotments based on the project scoring. City staff shall forward recommended award of allotments to the Planning Commission.
- H. Planning Commission Hearings – Award of Allotments.** The Planning Commission shall hold a public hearing to consider the award of allotment recommendation and to award allotments based on the project scoring. The Planning Commission may award fewer than the total number of allotments requested for a project and may award allotments to lower-scoring projects if doing so would create a more balanced and equitable distribution of allotments and help to achieve the goals of the General Plan.
- I. Appeals.** All decisions of the Planning Commission may be appealed to the City Council pursuant to Municipal Code Chapter 18.64.

- J. Development Agreement.** The City may issue building permits only after the applicant has entered into a Development Agreement with the City confirming the specific development commitments made by the applicant at the time the Planning Commission awarded allotments.

18.78.130 Pre-Application Review [CCA]

- A. Pre-Application Review Requirement.** Applicants may apply for allotments only after completing the Pre-Application Review process. Pre-Application Review is required only once for a development project – projects which previously received allotments and reapply for additional allotments in subsequent competitions are not required to complete Pre-Application Review again prior to reapplication. Significant changes to a project, as determined by the Community Development Director, will require Pre-Application Review.
- B. Project Quality and Consistency.** Pre-Application Review allows City staff to evaluate the overall project quality as well as consistency with the General Plan, any applicable specific plan, the Morgan Hill Municipal Code, Architectural Review Handbook, and other applicable City rules and regulations. Pre-Application Review is intended to help ensure that projects receiving allotments can be built consistent with their approved RDCS application.
- C. Timing and Schedule.** The Community Development Director shall establish a schedule for submittal of materials and City staff review that provides sufficient time for the completion of Pre-Application Review prior to the RDCS application submittal date.
- D. Project Information Required.** Applicants shall submit information and materials for Pre-Application Review necessary to present the project concept and demonstrate compliance with City land use and neighborhood design policies in the General Plan. Detailed architectural plans are not required. Materials submitted for Pre-Application Review become part of the public record and are not confidential.
- E. Multi-Department Review.** The City Planning Division of the Community Development Department, Engineering Division of the Public Works Department, and other City staff involved in the land use entitlement approval process shall participate in the Pre-Application Review.
- F. Review Letter.** After reviewing the submittal and meeting with the applicant, the Community Development Director shall provide applicants with a Pre-Application Review Letter either making a preliminary finding that for the purposes of the RDCS competition the project is consistent with City policies and ordinances, or recommending changes to a project necessary to achieve consistency with those policies and regulations. The Pre-Application Review Letter is not a project approval or final determination by the City as to a project's conformity to City policies and ordinances.
- G. Applicant Response.** Applicants shall submit their Pre-Application Review Letter with their allotment application and any response, if needed, detailing the changes made to the project to address staff comments, or reasons why changes were not possible or desirable.
- H. Planning Commission Consideration.** The Planning Commission shall consider the Pre-Application Review Letter and the applicant's response to the letter when awarding competition points under the Project Quality criteria category.

18.78.140 Project Phasing [CCA]

- A. Multi-Year Allotments.** The Planning Commission may distribute allotments awarded to a single project over multiple years as allowed by this section.
- B. Intent.** Multi-year allotments are intended to support a fair and efficient RDCS process by allowing high quality projects constructed over multiple years to compete one time for allotments.
- C. Eligibility.** The Planning Commission shall have the discretion to determine which projects are eligible for multi-year allotments.
- D. Number of Years.** The Planning Commission may award allotments over a period of up to:
 - 1. Three years for projects with less than 100 units; and
 - 2. Five years for projects with 100 or more units.
- E. Findings.** The Planning Commission may award multi-year allotments to projects only upon finding that:
 - 1. The multi-year allotments will support a steady rate of growth and help to avoid a sudden spike in construction of new housing;
 - 2. The multi-year allotments will help the City to plan for adequate public services and infrastructure to accommodate new development;
 - 3. The City will benefit from requiring the applicant to compete only once to receive allotments for all project phases; and
 - 4. An adequate number of allotments will remain in future years to accommodate a range of housing types to meet Morgan Hill's housing needs.
- F. Use of Allotments.**
 - 1. Multi-year allotments must be exercised by the date specified by the Planning Commission consistent with Section 18.78.160 (Expiration of Allotments).
 - 2. If allotments for one year are not exercised by the specified expiration date, all multi-year allotments awarded to the project shall expire.
- G. Regular Rate of Growth.** Allotments awarded for future years shall be subtracted from the number of allotments available to other projects in those years so as to maintain a regular rate of growth consistent with the RDCS.

18.78.150 Land Use Entitlements Required [CCA]

- A. Authorization to Apply for Entitlements.** An award of an allotment is not an entitlement to develop. Allotments authorize an applicant to apply for land use entitlements and to construct these units should the City approve the required land use entitlements.
- B. Effective Allotment.** Applicants may submit an application for land use entitlements only after receiving an award of allotment. Planned Development Zoning applications may be filed prior to receiving an award of allotment.

- C. Finding of Compliance with Approved RDCS Application.** To approve land use entitlements, the City must find that the project substantially complies with the RDCS application as approved by the Planning Commission.

18.78.160 Expiration of Allotments [CCA]

- A. Exercise of Allotment.** Allotments must be exercised within 30 months of approval or by an alternative date specified in the Development Agreement. An allotment is considered exercised with the recordation of a final map, issuance of a grading permit, or the commencement of construction if no final map or grading permit is required. The City may grant an extension to an allotment only as permitted under Section 18.78.170 (Extensions).
- B. Expiration.** Allotments that are not exercised consistent with the terms above expire the day following the exercise date specified in the Development Agreement.
- C. Reapplication.** Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.

18.78.170 Extensions [CCA]

- A. General.** The City may approve an extension to the date by which an allotment must be exercised only as allowed by this section.
- B. Extension Request.** Extension requests shall be submitted in writing to the Community Development Department a minimum of 60 days prior to the allotment expiration date and shall describe how the project meets the extension eligibility criteria in Subsection F below.
- C. Administrative Extension.** For projects that received allotments under the previous RDCS, but have not secured a Development Agreement, the Community Development Director may issue a six month extension.
- D. Number and Duration.** In addition to receiving an Administrative Extension and/or prior extensions under the previous RDCS, a project may receive no more than one extension for a maximum one additional year period. Phased projects may only receive one one-year extension.
- E. Public Notice and Hearing.** The Planning Commission shall review and act on an extension request at a noticed public hearing.
- F. Eligibility Criteria.**
1. The Planning Commission may approve an extension only when the City or other public agency is responsible for a delay in the issuance of permits or granting approvals required to exercise the allotments, or due to an earthquake, flood, fire, or other severe act of nature outside of the applicant's control. It is the applicant's responsibility to provide evidence that the request is consistent with this requirement.
 2. The Planning Commission may not approve an extension for any reason other than in Paragraph E.1 above, including but not limited to difficulties obtaining financing, changes to the project not required by the City or other public agencies, applicant delays responding to requests from the City or other public agency, personal circumstances of the applicant, or changes in property ownership.

- G. Appeals.** Planning Commission denial of a requested extension may be appealed to the City Council. The City Council may grant the appeal only upon finding that the request complies with the eligibility criteria in Paragraph F above.
- H. Effect of Denial.** If a request for extension is denied, the allotments shall expire the day following the exercise date specified in the Development Agreement. Projects with expired allotments must reapply for allotments in the same manner as all other new proposed projects requesting allotments.

IV. IMPLEMENTATION

- A. Effective Date:** Upon the effective date of this measure, March 1, 2017, the General Plan is amended in accordance with Section II and the Zoning Code is amended in accordance with Section III.
- B. Amendments.** Except as otherwise provided in the General Plan policies or Zoning Code provisions set forth above, this measure may be amended or repealed only by the voters of the City of Morgan Hill at a City election. Notwithstanding the foregoing, the General Plan and Zoning Code may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates provided that the provisions adopted by section II of this measure shall remain in the General Plan and the provisions adopted by Section III of this measure shall remain in Zoning Code unless earlier repealed or amended by vote of the people of the City of Morgan Hill.
- C. Severability and Interpretation.** This measure shall be interpreted so as to be consistent with all applicable Federal, State, and City laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The voters hereby declare that this measure, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions are declared invalid or unconstitutional. If any provision of this measure is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this measure that can be given effect without the invalid application. This measure shall be broadly construed in order to achieve its purpose. Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this measure are for convenience and organization only, and are not intended to be referred to in construing the provisions of this measure.

THE FOREGOING ORDINANCE WAS PASSED, APPROVED AND ADOPTED BY A MAJORITY OF VOTERS VOTING ON THE MEASURE IN A GENERAL MUNICIPAL ELECTION HELD AND CONDUCTED IN THE CITY OF MORGAN HILL, CALIFORNIA ON TUESDAY NOVEMBER 8, 2016, AS REQUIRED BY LAW. THIS ORDINANCE IS EFFECTIVE UPON CERTIFICATION OF THE ELECTION RESULTS. THE CITY CLERK IS HERBY DIRECTED TO PUBLISH THIS ORDINANCE PURSUANT TO SECTION 36933

THE MAYOR IS HERBY AUTHORIZED TO ATTEST TO THE ADOPTION OF THIS ORDINANCE BY THE VOTERS OF THE CITY OF MORGAN HILL BY SIGNING WHERE INDICATED BELOW.

APPROVED:


DATE:


STEVE TATE, Mayor

1/25/2017

ATTEST:

DATE:


IRMA TORREZ, City Clerk

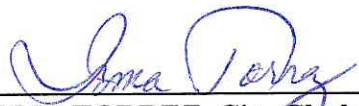
1/26/2017

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2229, New Series, passed, approved and adopted by the people of the City of Morgan Hill, voting on the 8th day of November 2016.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 1/26/2017


IRMA TORREZ, City Clerk